



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,045	08/18/2003	Dennis J. Gallant	7175-73311	3106

23643 7590 04/02/2004

BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

EXAMINER

FETSUGA, ROBERT M

ART UNIT PAPER NUMBER

3751

DATE MAILED: 04/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Office Action Summary</p>	Application No. 10/643,045	Applicant(s) GALLANT, DENNIS J.	
	Examiner Robert M. Fetsuga	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-32 is/are pending in the application.
- 4a) Of the above claim(s) 9-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>01/12/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3751

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 9-17, drawn to a personal care module, classified in class 4, subclass 642.

II. Claims 18-32, drawn to a personal care module, classified in class 4, subclass 664.

The inventions are distinct, each from the other because:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as without a toilet. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification which would lead to divergent fields of search, restriction for examination purposes as indicated is proper.

2. During a telephone conversation with Ronald S. Henderson on March 29, 2004 a provisional election was made with traverse to prosecute the invention of Group II, claims 18-32. Affirmation of this election must be made by applicant in replying to this Office action. Claims 9-17 are withdrawn from further

Art Unit: 3751

consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

3. The status of the parent application(s) should be updated.

4. The disclosure is objected to because of the following informalities: Page 4, line 14, "53" apparently should be --51--.

Appropriate correction is required.

5. Claim 25 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim is unclear as to whether the "hospital room" and "hospital bed" are intended to be part of the claimed combination since structure of the "personal care module" is defined as being connected thereto (lns. 6-7), but no positive structural antecedent basis therefor has been defined.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3751

7. Claims 18-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Hubert.

The Hubert reference discloses a personal care module comprising: a housing including a first portion 28, a second portion 29 and a third portion 20-22; a washing station 27; and a toilet 26, as claimed.

8. Claims 18, 19 and 25-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Snowball.

The Snowball reference discloses a personal care module comprising: a housing 5,6 including a first portion 5 and a second portion 6; a washing station 25; a toilet 9; and a floor engaging element 47,84, as claimed. Re claim 27, the washing station is considered to have a "bed pan washer" since this term connotes no particular structure over a sink.

9. Claims 18-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Rivera.


The Rivera reference discloses a personal care module comprising: a housing including a first portion g, a second portion o and a third portion k; a washing station l; and a toilet p, as claimed. Re claim 20, the Rivera module is considered to meet the structure defined by the language "positioned for movement".

Art Unit: 3751

10. The non-English language prior art references (AL, AM, AN, BL, BM, BN, BO, BP, CL, CN, CO, CP, DL) cited in the information disclosure statement (ids) filed January 12, 2004, have been considered to the extent understood from the attendant drawings as applicant's requested in the ids.

11. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

12. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 703/308-1506 who can be most easily reached Monday through Thursday.

A handwritten signature in black ink, appearing to read "Robert M. Fetsuga", is positioned above the printed name.

Robert M. Fetsuga
Primary Examiner
Art Unit 3751